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April 21, 2023

APR 25 2023

Geri Schmaltz  
Administrative Officer  
ND Public Service Commission  
600 E Boulevard Avenue Dept 408  
Bismarck, ND 58505-0480

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Re: Project Code: RC-22-420, BNI Coal Application to renew Surface Coal Mining Permit No  
BNCR-8106 in Oliver County

Dear Ms. Schmaltz:

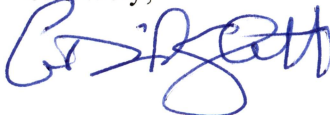
The North Dakota Department of Environmental Quality has reviewed the information concerning the above-referenced project received at the department on April 13, 2023 with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have no further comments.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, P.E., Director  
North Dakota Department of Environmental Quality

LDG:csc  
Attach.

12 RC-22-420 Filed 04/25/2023 Pages: 2  
Response to Advisory Review Request Letter  
North Dakota Department of Environmental Quality (DEQ)  
L. David Glatt

## Construction and Environmental Disturbance Requirements

The following are the minimum requirements of the North Dakota Department of Environmental Quality for projects that involve construction and environmental disturbance in or near waters of the State of North Dakota. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect waters of the state. All projects must be constructed to minimize the loss of soil, vegetative cover, and pollutants (chemical or biological) from a site.

### **Soils**

Prevent the erosion and sediment loss using erosion and sediment controls. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, and land resources must be prohibited against compaction, vegetation loss and unnecessary damage.

### **Surface Waters**

All construction must be managed to minimize impacts to aquatic systems. Follow safe storage and handling procedures to prevent the contamination of water from fuel spills, lubricants, and chemicals. Stream bank and stream bed disturbances must be contained to minimize silt movement, nutrient upsurges, plant dislocations, and any physical chemicals, or biological disruption. The use of pesticides or herbicides in or near surface waters is allowed under the department's pesticide application permit with notification to the department.

### **Fill Material**

Any fill material placed below the ordinary high-water mark must be free of topsoil, decomposable materials, and persistent synthetic organic compounds; including, but not limited to, asphalt, tires, treated lumber, and construction debris. The department may require testing of fill material. All temporary fills must be removed. Debris and solid waste must be properly disposed or recycled. Impacted areas must be restored to near original condition.